



12-08-03

PATENT

DAC
#25/ald
W/D ABN
12-22-03

Attorney Docket No. 81862P072

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re utility Patent Application for:)
)
David A. Hughes, et al.)
)
Application No.: 08/825,492)
)
Filed: March 28, 1997)
)
For: SCHEME FOR MERGING PARTIALLY)
 FILLED ATM CELLS)

Examiner: Hsu, Alpus
Art Unit: 2665

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Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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PETITION UNDER 37 C.F.R. § 1.182
TO WITHDRAW THE NOTICE OF ABANDONMENT

Sir:

Applicants hereby petition under 37 C.F.R. § 1.182 to withdraw the abandonment of this patent application.

This information is being submitted promptly after applicants have learned of the abandonment on the basis of the Notice of Abandonment mailed October 24, 2003.

It is respectfully submitted that applicants timely filed a Continued Prosecution Application (CPA) with a Preliminary Amendment in response to the Decision on Appeal. The Decision on Appeal was mailed August 27, 2002. Applicants timely deposited the Continued Prosecution application (CPA) and Preliminary Amendment with the U.S. Postal Service as Express Mail on October 18, 2002 in accordance with the procedures of 37 C.F.R. § 1.10.

Enclosed are photocopies of the following items that were filed with the United States Patent and Trademark Office ("U.S. PTO") on October 18, 2002:

12/09/2003 SZEWDIE1 00000061 08825492

- (1) Continued Prosecution Application (CPA) Request Transmittal dated October 18, 2002;
- (2) Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) dated October 18, 2002;
- (3) Preliminary Amendment dated October 18, 2002 Accompanying Continued Prosecution Application;
- (4) a check for \$1,022.00 for the CPA filing fee;
- (5) the return postcard.

The above-referenced postcard was returned to the undersigned attorney by the U.S. Patent and Trademark Office stamped with a date of October 18, 2002 by the mailroom of the U.S. Patent and Trademark Office. The Express Mail label shows a "Date In" date of October 18, 2002.

Applicants believe that this abandonment was a mistake of the Patent and Trademark Office. The Patent and Trademark office mistakenly mailed a Notice of Abandonment on October 24, 2003 with respect to this patent application.

Applicants therefore respectfully request reconsideration and withdrawal of the holding of abandonment of the above-identified patent application on the basis that there was in fact no abandonment.

The following documents that support applicants' request are enclosed as Exhibits to this Petition:

- (1) a photocopy of the Continued Prosecution Application (CPA) Request Transmittal dated October 18, 2002;
- (2) a photocopy of the Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) dated October 18, 2002;
- (3) a photocopy of the Preliminary Amendment dated October 18, 2002 Accompanying the Continued Prosecution Application;

- (4) a photocopy of the return postcard as stamped by the U.S. PTO;
- (5) a photocopy of the check for \$1,022.00;
- (6) a photocopy of the Express Mail label.

Also enclosed is a check for \$130.00 for the fee under 37 C.F.R. § 1.17(h) for this Petition. Applicants also request a refund of the petition fee because no defect on the part of applicants exists. If there are any additional charges, please charge Deposit Account No. 02-2666.

Alternatively, applicants hereby petition under 37 C.F.R. § 1.137(a) that the application be revived given that the delay was unavoidable because applicants in fact filed a CPA and Preliminary Amendment as shown above and, through no fault of applicants, that submission was apparently ignored by the PTO in favor of an erroneous Notice of Abandonment. There is simply no practical way for applicants to have avoided this holding of abandonment given that there was no basis whatsoever for the Notice of Abandonment by the PTO.

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Respectfully submitted,

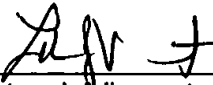
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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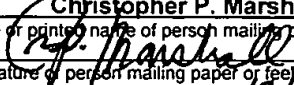
DEC 10 2003

Dated: December 5, 2003


Lester J. Vincent
Reg. No. 31,460

OFFICE OF PETITIONS

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025
(408) 720-8300

| EXPRESS MAIL STATEMENT | |
|---|-------------------------|
| "Express Mail" mailing label number: | <u>EV336587952US</u> |
| Date of Deposit: | <u>December 5, 2003</u> |
| I hereby state that I am causing this paper or fee to be deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above and that this paper or fee has been addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 | |
| <u>Christopher P. Marshall</u> | |
| (Type or printed name of person mailing paper or fee) | |
|  | |
| (Signature of person mailing paper or fee) | |
| <u>12/5/2003</u> | |
| (Date Signed) | |

FEE TRANSMITTAL FOR FY 2004

(FY 2004 Begins 10/01/2003)

TOTAL AMOUNT OF PAYMENT (\$) 130.00

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Complete if Known:

Application No. 08/825,492

Filing Date March 28, 1997

First Named Inventor David A. Hughes

Examiner Name Hsu, Alpus

Art Unit 2665

Attorney Docket No. 81862P072

☐ Applicant claims small entity status. See 37 CFR 1.27.

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account

Deposit Account Number : 02-2666

Deposit Account Name: _____

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:

☐ Charge fee(s) indicated below.

☒ Credit any overpayments.

☒ Charge any additional fees during the pendency of this application.

☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

☐ Charge fee(s) indicated below except for the filing fee.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------------------|----------|
| Code | Fee (\$) | Code | Fee (\$) | | |
| 1001 | 770 | 2001 | 385 | Utility application filing fee | _____ |
| 1002 | 340 | 2002 | 170 | Design application filing fee | _____ |
| 1003 | 530 | 2003 | 265 | Plant filing fee | _____ |
| 1004 | 770 | 2004 | 385 | Reissue filing fee | _____ |
| 1005 | 160 | 2005 | 80 | Provisional application filing fee | _____ |

SUBTOTAL (1) \$ 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | | | Extra Claims | Fee from below | Fee Paid |
|--------------------|-------|----------|--------------|----------------|----------|
| Total Claims | _____ | - 20** = | _____ | X | _____ |
| Independent Claims | _____ | - 3** = | _____ | X | _____ |
| Multiple Dependent | _____ | | | | _____ |

**Or number previously paid, if greater; For Reissues, see below.

| Large Entity | | Small Entity | | Fee Description |
|--------------|----------|--------------|----------|---|
| Code | Fee (\$) | Code | Fee (\$) | |
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 |
| 1201 | 86 | 2201 | 43 | Independent claims in excess of 3 |
| 1203 | 290 | 2203 | 145 | Multiple dependent claim, if not paid |
| 1204 | 86 | 2204 | 43 | **Reissue independent claims over original patent |
| 1205 | 18 | 2205 | 9 | **Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) \$ 0.00

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FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for ex parte reexamination | |
| 1813 | 8,800 | 1813 | 8,800 | Request for inter parties reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 420 | 2252 | 210 | Extension for reply within second month | |
| 1253 | 950 | 2253 | 475 | Extension for reply within third month | |
| 1254 | 1,480 | 2254 | 740 | Extension for reply within fourth month | |
| 1255 | 2,010 | 2255 | 1,005 | Extension for reply within fifth month | |
| 1401 | 330 | 2401 | 165 | Notice of Appeal | |
| 1402 | 330 | 2402 | 165 | Filing a brief in support of an appeal | |
| 1403 | 290 | 2403 | 145 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,330 | 2453 | 665 | Petition to revive - unintentional | |
| 1501 | 1,330 | 2501 | 665 | Utility issue fee (or reissue) | |
| 1502 | 480 | 2502 | 240 | Design issue fee | |
| 1503 | 640 | 2503 | 320 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | 130.00 |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 770 | 2809 | 385 | For filing a submission after final rejection (see 37 CFR 1.129(a)) | |
| 1814 | 110 | 2814 | 55 | Statutory Disclaimer | |
| 1810 | 770 | 2810 | 385 | For each additional invention to be examined (see 37 CFR 1.129(b)) | |
| 1801 | 770 | 2801 | 385 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |
| 1504 | 300 | 1504 | 300 | Publication fee for early, voluntary, or normal pub. | |
| 1505 | 300 | 1505 | 300 | Publication fee for republication | |
| 1803 | 130 | 1803 | 130 | Request for voluntary publication or republication | |
| 1808 | 130 | 1808 | 130 | Processing fee under 37 CFR 1.17(i) (except provisionals) | |
| 1454 | 1,330 | 1454 | 1,330 | Acceptance of unintentionally delayed claim for priority | |

Other fee (specify) _____

Other fee (specify) _____

SUBTOTAL (3) \$ 130.00

*Reduced by Basic Filing Fee Paid

SUBMITTED BY:

Typed or Printed Name: Lester J. Vincent

Signature:  Date: December 5, 2003

Reg. Number: 31,460 Telephone Number: (408) 720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



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EXHIBITS

- (1) a photocopy of the Continued Prosecution Application (CPA) Request Transmittal dated October 18, 2002;
- (2) a photocopy of the Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) dated October 18, 2002;
- (3) a photocopy of the Preliminary Amendment dated October 18, 2002 Accompanying the Continued Prosecution Application;
- (4) a photocopy of the return postcard as stamped by the U.S. PTO;
- (5) a photocopy of the check for \$1,022.00;
- (6) a photocopy of the Express Mail label.



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OCT 28 2002

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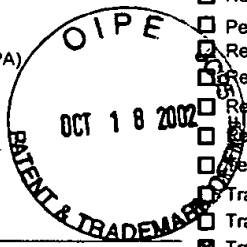
Application No. 08/825,492 Filing Date: 03/28/97 BSTZ Docket #: 081862.P072C2 Atty/Sec: TNF/lis
Date Mailed: 10/18/2002 Docket Due Date(s): _____ Client: Cisco Technology, Inc.
Title: Scheme for Merging Partially Filled ATM Cells

First Named Inventor: David A Hughes

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Amendment: Preliminary (<u>8</u> pgs) | <input type="checkbox"/> Information Disclosure Statement & PTO/SB/08 (<u> </u> pgs) |
| <input type="checkbox"/> Appeal Brief & two copies (<u> </u> pgs) | <input type="checkbox"/> Issue Fee Transmittal (original & copy) |
| <input type="checkbox"/> Application: <u> </u> pages w/ cover & abstract | <input checked="" type="checkbox"/> Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) |
| <input type="checkbox"/> Assignment & Cover Sheet (<u> </u> pgs) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Certificate of | <input type="checkbox"/> Petition for: <u> </u> |
| <input checked="" type="checkbox"/> Continued Prosecution Application (CPA) | <input type="checkbox"/> Request for Continued Examination (RCE) |
| <input type="checkbox"/> Declaration & POA (<u> </u> pgs) | <input type="checkbox"/> Reply Brief (<u> </u> pgs) |
| <input type="checkbox"/> Drawings: <u> </u> sheets, <u> </u> figures | <input type="checkbox"/> Request to Rescind Previous Nonpublication Request |
| <input checked="" type="checkbox"/> Express Mail No: <u>EV151113812US</u> | <input type="checkbox"/> Response to |
| <input type="checkbox"/> Extension of Time: <u> </u> | <input type="checkbox"/> Terminal Disclaimer |
| <input type="checkbox"/> Fee Transmittal (original & copy) | <input type="checkbox"/> Transmittal of Formal Drawings |
| <input checked="" type="checkbox"/> Other: <u>Postcard</u> | <input type="checkbox"/> Transmittal of Publication Fee Due |
| | <input checked="" type="checkbox"/> Transmittal Letter |
| | <input checked="" type="checkbox"/> Check No. <u>1470</u> in the Amount of <u>\$1,022.00</u> |
| | <input type="checkbox"/> Check No. <u> </u> in the Amount of <u> </u> |

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SAN JOSE, CA 95113-2392

(408) 947-8200

11-24
1210(8)

October 18, 2002

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1,022.00

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Director of the United States
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Washington, DC 20231-0001

TO
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THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.
IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.

Invoice: 10/18/2002 Amount: 1022.00
081862.0072C2 Cisco Technology, Inc. TNF/jls
Continuation Application filing fee
Scheme for Merging Partially Filled ATM Cells
Inventors: David A. Hughes, et al.
USSN 08/825,492 Filed March 28, 1997
Ex Mail No.: EV 151 113 812 US

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| Date 10/18/02 | <input type="checkbox"/> Next Day <input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM | Postage \$ 13.65 |
| Time 6:50 PM | Military <input type="checkbox"/> 1st Day <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day | Return Receipt Fee \$ 0.00 |
| Weight 4 lbs | Int'l Adult Country Code | COD Fee \$ 0.00 |
| No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday | Acceptance Clerk Initials | Total Postage & Fees \$ 13.65 |

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| Delivery Date 10/18/02 | Time AM PM | Employee Signature |

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